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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,161	07/10/2003	Michael D. Fishel	08186.105003	2724
20786	7590	04/11/2005	EXAMINER	
KING & SPALDING LLP 191 PEACHTREE STREET, N.E. ATLANTA, GA 30303-1763			DOUGLAS, STEVEN O	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/617,161	FISHEL, MICHAEL D.	
	Examiner	Art Unit	
	Steven O. Douglas	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29, 34-61, 63-66, 69-80, 82-87, 89-95 and 98-109 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16, 44-54 and 101-108 is/are allowed.
- 6) ☒ Claim(s) 17-29, 34-39, 41-43, 55-61, 63-66, 69-80, 82-87, 89-95 and 98-100 is/are rejected.
- 7) ☒ Claim(s) 40 and 109 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-24,27,28,36-39,41-43,55,58-61,63-66,72-75,78,79 and 84-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher'461 et al.

The Fisher et al. reference discloses a comminuted product transfer system and method (the method as claimed would be inherent during use and operation of the system) comprising a first storage medium 12 (e.g. a rail car located at a rail yard; see col. 3, lines 27-32), a mobile material transfer unit 14 (e.g. a trailer platform mounted to a tractor; see col. 4, lines 46-48), and a compressor 26 (see col. 5, lines 30-33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25,26,56,57,76,77,87 and 89-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. in view of Agnew'995.

The Fisher et al. reference discloses a mobile transfer system (*supra*), but does not disclose the system as being arranged to accommodate a liquid product such as liquefied petroleum gas. The Agnew reference discloses another mobile transfer system arranged for accommodating liquefied petroleum gas and transporting such liquid over the road to a user facility. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Fisher et al. to accommodate a liquid product such as liquefied petroleum gas in view of the teachings of the Agnew reference in order to transport liquefied petroleum gas over the road to a delivery point or user facility.

In regard to claims 92-95, the Fisher et al. reference fails to disclose the traveling range of the system as being less than one mile, less than 10 miles, less than 50 miles or greater than or equal to 50 miles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the traveling range of the system be less than one mile, less than 10 miles, less than 50 miles or greater than or equal to 50 miles, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 29,34,35,69,70,71,80,82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al.

The Fisher et al. reference fails to disclose the traveling range of the system as being less than 300 miles, greater than or equal to 300 miles, zero miles, less than one mile, less than 10 miles, less than 50 miles or greater than or equal to 50 miles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the

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traveling range of the system be less than 300 miles, greater than or equal to 300 miles, zero miles, less than one mile, less than 10 miles, less than 50 miles or greater than or equal to 50 miles, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Claims 1-16, 44-54 and 101-108 are allowed.

Claims 40 and 109 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

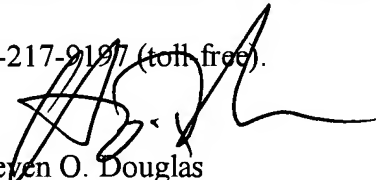
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
4-7-05